

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

On page 2 of the office action, the Examiner rejected claim 1 under 35 U.S.C. §102(b) as being anticipated by Lippacher *et al.* (4,171,083).

The invention described in Lippacher is a specially-designed drilling and driving tool, with means for pivoting the drilling tool over the driving tool. Applicant's tool, on the other hand, is a separate tool which can be mounted onto any conventional rotary hammer drill with a masonry drill bit. Further, Lippacher's "driver" is part of the "ram"; hence, the "driver" does not have an impact end, and the "ram" does not have a driving end. Finally, it is unclear how Lippacher's tool works. The specification states that "percussive energy is transmitted from the drilling tool [13] through the shoulder 14a to the percussion attachment 14" (col. 5, ll. 66-68). However, the axially extending cutout 14b would surely cause the percussion attachment 14 to wobble, likely tearing up the tip of the drilling tool 13.

In any event, the keyed bearing described by applicant is such an important component of his invention that he has amended claim 1 to include the element, which is entirely absent from Lippacher. Claim 1, as amended, should be allowable over Lippacher.

On page 3 of the office action, the Examiner rejected claims 1 through 6 under 35 U.S.C. §103(a) as being unpatentable over Foose (6,446,318) in view of Watkins, Jr. *et al.* (4,867,249) and further in view of Kosik *et al.* (5,979,913).

As noted above, claim 1 has been amended to include the keyed bearing originally referred to in claim 2, and claims 2 through 6 depend on the amended claim 1. All of the claims should be allowable over the combination of references cited.

Applicant's invention is not simply a combination of old art, of both manual and drill-operated drivers. Applicant was required to solve a number of problems in reducing his novel device to practice. The Examiner's simplistic combination of three references does not support an obviousness rejection of the present invention.

More particularly, Foose describes a tool for installing wheel weights. It is designed to be used with a manual hammer, and could not be modified to be used with a rotary hammer drill having a masonry drill bit. In fact, the proposed modification would unnecessarily change the principle of operation of the Foose apparatus. *In re Ratti*, 270 F. 2d 810, 123 U.S.P.Q. 349 (CCPA 1959).

The "ram" 120 of Watkins is not inserted into the bore of a separate body member, but instead is the body of the tool itself, which both receives the impact from the drill and imparts it directly to the anchor. Clearly, it cannot receive the percussive force from a rotary hammer drill "without impacting the body member of the tool." The movement of the drill bit itself imparts the movement which drives in the anchor.

Similarly, the "ram" of Kosik is not inserted into the bore of a separate body member, but instead is the body of the driving tool itself, which both receives the impact from the drill and imparts it directly to the adapter. Clearly, it cannot receive the percussive force from a rotary hammer drill "without impacting the body member of the tool." As in Watkins, the movement of the drill bit itself imparts the movement which drives the anchor.

Further, it would not have been obvious to have modified the Foose apparatus (which is operated manually) by incorporating components taught by Watkins and Kosik; nothing in Foose suggests its use with a power drill, and neither the Watkins nor the Kosik

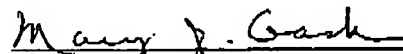
devices are used with a hammer. Further, as noted in *ACS Hospital Sys, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984), since none of the patents suggest the combination, obviousness cannot be established by combining the teachings of the patents.

Finally, none of the prior art references discloses the keyed bearing which is part of applicant's claim 1, as amended. The Examiner called out Kosik's bit engaging portion 46 with slot 35 as the equivalent of applicant's keyed bearing 20. However, Kosik discloses not a keyed bearing but exactly what it is called: a "bit engaging portion 46 [which] includes a slot 35 that receives the tip of the bit." (col. 3, ll. 6-61). Kosik's part 46 is not disposed inside a sleeve at the driving end of the ram, and the slot, or notch, is not the longitudinal slot in the keyed bearing through which the end of the drill bit is inserted, as disclosed by applicant. Applicant's keyed bearing keeps the drill bit in alignment, while allowing it to spin without damaging the interior of the tool or shearing the tip of the bit. The body member of the tool remains stationary because it is not impacted by the percussive force of the drill, nor by the rotary action of the drill bit.

In light of the foregoing arguments, and upon entry of the amendments, allowance of claims 1 through 6 should be in order and is respectfully requested.

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Respectfully submitted,



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